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16 GEISMANN M.D. P.C., and the Proposed Class

17 IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 _____)
19 PHYSICIANS HEALTHSOURCE) Case No. 8:14-cv-00001 JVS (ANx)
INC., and RADHA GEISMANN)
M.D. P.C.,) Hon. James V. Selna
Plaintiffs,

22 v.)
23 MASIMO CORPORATION, et al.) **PLAINTIFFS' REPLY IN SUPPORT**
Defendants.) **OF MOTION IN LIMINE NO. 2 TO**
24) **PRECLUDE ANY IRRELEVANT OR**
25) **PREJUDICIAL DETAILS**
26) **REGARDING PLAINTIFFS, THEIR**
27) **BUSINESS ACTIVITIES OR THEIR**
28) **OWNERS**

) **HEARING:**
Date: To be scheduled
Time:
Ctrm: 10C

1 The Court should grant Plaintiffs' request to exclude irrelevant or
2 prejudicial details regarding Plaintiffs, their business activities or their owners
3 **to the jury.** (emphasis added). As previously stated, Plaintiffs are not seeking to
4 exclude evidence or argument surrounding Plaintiffs' business practices as they
5 relate to whether Masimo obtained Plaintiffs' prior express invitation or
6 permission to send the faxes at issue. Plaintiffs allege the faxes at issue were
7 sent by Masimo on October 12, 2011 and April 10, 2012.

8 Masimo claims this Motion in Limine "amounts to a motion [for]
9 summary judgment disguised as a motion *in limine*." (Doc. 335-3, Masimo
10 Redacted Opp. to Mtn in Limine No. 2 at 2:10-11). Nothing could be further
11 from the truth. Plaintiffs do not seek to influence the Court's decision on
12 Masimo's Motion for Summary Judgment. (Doc. 294). Rather Plaintiffs
13 appropriately seek to limit the evidence presented to the jury to that which is
14 relevant to the claims and defenses which the jury will render a verdict. Federal
15 Rule of Evidence 402 is clear: "Evidence which is not relevant is not
16 admissible." "Unlike a summary judgment motion, which is designed to
17 eliminate a trial in cases where there are no genuine issues of fact, a motion in
18 limine is designed to narrow the evidentiary issues for trial and to eliminate
19 unnecessary trial interruptions." *LA Printex Indus., Inc. v. Belk, Inc.*, 2011 WL
20 13213606, at *3 (C.D. Cal. Mar. 15, 2011) citing *Bradley v. Pittsburgh Bd. of
21 Educ.*, 913 F.2d 1064, 1069–70. Masimo seeks to present irrelevant evidence
22 regarding Plaintiffs, their business activities and their owners. The Court should
23 narrow the evidentiary issues to those which are relevant to the issues before the
24 jury.

25 Masimo claims it "is "confident the Court will not allow either party to
26 present to the jury irrelevant or misleading evidence regarding **any topic.**" (Doc.
27 335-3, Masimo Redacted Opp. to Mtn in Limine No. 2 at 2:1-2) (internal
28

1 quotation omitted) (emphasis added). Masimo fails to identify any topic which
2 this category of evidence relates.

3 Masimo claims Physicians Healthsource, Inc. “is subject to a unique
4 defense that it lacks standing to continue to assert its claim in this case.” (Doc.
5 335-3, Masimo Redacted Opp. to Mtn in Limine No. 2 at 2:20-21). Masimo also
6 claims “Geismann’s corporate charter and actions are relevant to Geismann’s
7 standing and Geismann’s suitability to be a class representative.” *Id.* at 3:9-10.
8 Masimo’s Motion for Summary Judgment (Doc. 294) and Plaintiffs’ Motion for
9 Class Certification (Doc. 241) presents these issues to the Court for
10 determination. Masimo does not, and cannot, cite any support for the
11 proposition that a jury should determine matters of “standing” and “suitability to
12 be a class representative.”

13 Plaintiffs respectfully request the Court grant Plaintiffs’ Motion in Limine
14 No. 2.

15 Respectfully submitted,

16 ANDERSON + WANCA
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18 Dated: October 8, 2019

19 By: s/Ross M. Good
20 Attorneys for Plaintiff,
21 PHYSICIANS HEALTHSOURCE, INC. and
22 RADHA GEISMANN M.D. P.C.
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